IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5135 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE A.M.KAPADIA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SHANU TRADERS, ISMAILBHAI IBRAHIMBHAI - Petitioner(s)

Versus

AMBALAL VRAJLAL PARIKH - Respondent(s)

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Appearance :

MR ZUBIN F BHARDA for Petitioner(s) : 1,

RULE SERVED BY DS for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE A.M.KAPADIA

Date : 13/12/2006

ORAL JUDGMENT

1. By instant petition under Article 227 of the Constitution of India, petitioner / original defendant seeks to challenge the order dated 20.1.2005 rendered below application exh. 17 summons for judgement and application exh. 24 seeking unconditional leave in Summary Suit no. 6059 of 2003 by the learned Judge, Court no.4, Small Causes Court, Ahmedabad by which the petitioner / original defendant is granted conditional leave to defend the suit on depositing Rs.97,700/- within 8 weeks from the date of the order.

2. This Court vide order dated 22.3.2005 issued “Rule” as well as “notice as to interim relief” on the respondent, making it returnable on 29.4.2005 and passed further order that the petitioner shall pay 40% of the amount claimed within a period of two months from the date of the said order.

3. Today, this matter is listed for final hearing before this Court. Mr. Zubin F. Bharda, learned advocate of the petitioner, upon instructions received from the petitioner, states that Summary Suit no. 6059 of 2003, filed by the respondent, has already been withdrawn on 28.10.2005 by filing

purshis of withdrawal, as the parties have amicably settled the matter, therefore this petition has now become infructuous. He, therefore urged to pass appropriate order.

4. In view of the statement made by Mr. Zubin F. Bharda, learned advocate of the petitioner, this petition is disposed of as it has become infructuous. Rule is discharged with no order as to costs.

Direct service permitted.

(A.M.Kapadia,J)

Jayanti*